

Foreign Employee Dormitories Bill

Bill No. 43/2014.

Read the first time on 4 November 2014.

FOREIGN EMPLOYEE DORMITORIES ACT 2014

(No. of 2014)

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A BILL

intituled

An Act to provide for the regulation of operators of dormitories for foreign employees and for matters connected with or incidental to that.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART 1
PRELIMINARY

Short title and commencement

5 **1.** This Act may be cited as the Foreign Employee Dormitories Act 2014 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

General interpretation

2.—(1) In this Act, unless the context otherwise requires —

10 “boarding premises” means premises (or a complex of premises) that —

 (a) provide boarders or lodgers with a principal place of residence;

15 (b) may have shared facilities (such as a communal living room, bathroom, laundry or kitchen) or services that are provided to boarders or lodgers, or both; and

 (c) have rooms (some or all of which may have private kitchen or bathroom facilities) that accommodate one or more boarders or lodgers;

20 “business restriction directive” means regulatory action referred to in section 14(2)(b)(iii);

“code of practice” or “standard of performance” means a code of practice or standard of performance issued or approved under section 19;

25 “Commissioner” means the Commissioner for Foreign Employee Dormitories appointed under section 6(1), and includes any Deputy Commissioner for Foreign Employee Dormitories or Assistant Commissioner for Foreign Employee Dormitories delegated under section 6(5) to exercise the Commissioner’s powers or duties under this Act;

30 “compliance directive” means a directive issued under section 13;

“dormitory inspector”, in relation to any provision of this Act,
means —

- (a) the Commissioner;
- (b) any Deputy Commissioner for Foreign Employee
Dormitories and any Assistant Commissioner for
Foreign Employee Dormitories; and 5
- (c) any individual appointed under section 6(3) and
authorised under section 6(5) or other provision in
this Act to perform any duty or exercise any power
under that provision; 10

“foreign employee” means a foreigner —

- (a) who seeks employment, or is employed to work, in
Singapore but excludes a self-employed foreigner; or
- (b) whose employment in Singapore has expired or has
been terminated (whether or not for justified reasons) 15
and is authorised under the Immigration Act (Cap. 133)
to remain in Singapore;

“foreign employee dormitory” has the meaning given in
section 3(1);

“foreigner” means an individual who is neither a citizen nor a
permanent resident of Singapore; 20

“licence” means a licence granted under section 9(1)(a)
authorising a person to operate the boarding premises
specified in the licence as a foreign employee dormitory;

“licensed operator” means the person to whom a valid licence is
granted under section 9(1)(a); 25

“manager”, in relation to boarding premises or a foreign
employee dormitory, means an individual who is
responsible for the day-to-day control and supervision of
the operations of the boarding premises or foreign employee
dormitory; 30

“modification” and “modify”, in relation to the conditions of a licence, include deleting or varying and substituting a condition, and adding a condition;

“occupancy agreement”, in relation to boarding premises, means an agreement (written or unwritten) —

(a) to which a proprietor or an operator of the boarding premises (or a person acting on behalf of the operator) is a party; and

(b) under which a foreign employee is provided one or more beds or rooms, or spaces within a room, in the boarding premises to occupy as a resident of those premises;

“occupancy load”, for any premises, means the prescribed maximum number of individuals permitted by law to ordinarily occupy those premises at any one time;

“operate”, in relation to any boarding premises, means managing and maintaining, in the course of a business, the boarding premises (whether self-owned or under lease) as a foreign employee dormitory, for residents who may or may not be employees of the operator;

“premises” means a building or structure (whether permanent or temporary) or part of such a building or structure, and includes any immediately adjoining space or land necessary for access to, or the enjoyment of residents of, the building or structure;

“proprietor”, in relation to any premises that are leased or are subject to a tenancy or licence to occupy, includes the owner of the premises who is the lessor or grantor of the licence to occupy;

“public authority” means a body established or constituted by or under a public Act to perform or discharge a public function;

“Register” means the register of licensed operators of foreign employee dormitories kept under section 21;

“relative”, in relation to an individual, includes any of the following:

- (a) another individual who is the spouse of the individual;
- (b) another individual who is the parent, step-parent, son, daughter, step-son, step-daughter, grandparent, grandchild, brother, sister, step-brother, step-sister, uncle, aunt, niece or nephew (whether by blood, marriage or adoption) of the individual;
- (c) another individual who is the guardian or ward of the individual;

“resident”, in relation to boarding premises (whether or not a foreign employee dormitory), means any individual who occupies or enjoys a right to occupy one or more beds or rooms, or spaces within a room, in those premises as the individual’s main or only residence in Singapore, and includes any resident who is a proprietor or manager of those premises or relatives of the proprietor or manager.

(2) For the purposes of the definition of “boarding premises” in subsection (1), the Commissioner may determine whether buildings, structures or facilities are to be regarded as a single complex of premises.

Premises to which Act applies

3.—(1) Subject to subsection (2), in this Act, “foreign employee dormitory” means any boarding premises that —

- (a) provides the threshold number of beds or higher for use by residents who are foreign employees;
- (b) provides accommodation to the threshold number of residents who are foreign employees or higher; or
- (c) has the prescribed occupancy load and provides accommodation substantially to foreign employees.

(2) However, this Act does not apply to —

- (a) premises that are used as a hotel, an inn, a hostel or a bed and breakfast accommodation;

(b) a serviced apartment, being a building or part of a building that is used to provide self-contained tourist or visitor accommodation that is regularly cleaned by or on behalf of the proprietor or manager;

5 (c) premises for the reception, lodging and care of aged or disabled persons, or persons suffering or convalescing from any sickness, injury or infirmity, including but not limited to a convalescent home or nursing home but excluding a sick bay or similar facility within any boarding premises;

10 (d) a student hostel or hall of residence for the accommodation of students;

(e) a house;

15 (f) a self-contained residence that is a flat or an apartment (consisting of a suite of rooms) forming a portion of a building;

(g) any prison where an individual is incarcerated to serve a sentence of imprisonment, any other place where a prisoner may serve his or her sentence of imprisonment outside of a prison, or premises for the purposes of detaining individuals serving orders of detention under any written law, whether or not for their rehabilitation or safety;

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(h) any vessel used as boarding premises for employees in connection with their work or employment on or relating to the vessel;

25 (i) premises used for crisis accommodation that is provided by or on behalf of the Government or a public authority; and

(j) any boarding premises specified or described by the Minister, by order published in the *Gazette*, as not to be treated as foreign employee dormitories.

30 (3) In this section, “threshold number” means 1,000 or such lower number as the Minister may, by notification published in the *Gazette*, prescribe in substitution.

(4) Any notification made under subsection (3) prescribing a lower threshold number in substitution may contain such saving,

transitional, incidental or consequential provisions as the Minister considers necessary or proper.

(5) Every order and notification made under subsections (2)(j) and (3), respectively, must be presented to Parliament as soon as possible after publication in the *Gazette*.

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Purpose of Act

4. The purpose of this Act is to provide a regulatory framework for the provision of facilities and amenities, and the delivery of services, to residents of foreign employee dormitories who are foreign employees by —

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- (a) providing for the licensing of operators of foreign employee dormitories;
- (b) providing for certain accommodation standards to be observed with respect to the accommodation of residents of foreign employee dormitories and for the appropriate mechanisms for the enforcement of those standards; and
- (c) promoting the sustainability of, and continuous improvements in, the provision of services at foreign employee dormitories.

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Interface with other laws

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5. Nothing in this Act derogates from any requirement imposed by or under —

- (a) the Building Control Act (Cap. 29);
- (b) the Control of Vectors and Pesticides Act (Cap. 59);
- (c) the Environmental Public Health Act (Cap. 95);
- (d) the Fire Safety Act (Cap. 109A);
- (e) the Planning Act (Cap. 232); or
- (f) any other prescribed written law with respect to the use of premises as, or the provision of services to residents of, foreign employee dormitories.

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Appointment of Commissioner, etc., and dormitory inspectors

6.—(1) The Minister may in writing appoint a public officer as the Commissioner for Foreign Employee Dormitories who is to be responsible for the administration of this Act.

5 (2) The Minister may also appoint public officers to be Deputy Commissioners for Foreign Employee Dormitories and Assistant Commissioners for Foreign Employee Dormitories.

10 (3) The Commissioner may appoint as dormitory inspectors any of the following persons with suitable qualifications and experience to properly exercise the powers of a dormitory inspector:

(a) a public officer;

(b) an employee of any public authority;

(c) any individual who is not a public officer or an employee referred to in paragraph (a) or (b).

15 (4) The Commissioner is to issue, or cause to be issued, to each dormitory inspector an identification card, which must be carried at all times by the dormitory inspector when exercising powers under this Act.

20 (5) Subject to subsection (6), the Commissioner may authorise, by delegation, the exercise of all or any of the powers conferred or duties imposed upon the Commissioner by or under this Act to a Deputy Commissioner for Foreign Employee Dormitories, an Assistant Commissioner for Foreign Employee Dormitories or a dormitory inspector, except the power of delegation under this subsection.

25 (6) Any delegation under subsection (5) may be general or in a particular case and may be subject to such conditions or limitations as set out in this Act or as the Commissioner may specify.

30 (7) The Commissioner, every Deputy Commissioner for Foreign Employee Dormitories and Assistant Commissioner for Foreign Employee Dormitories and every dormitory inspector is deemed to be a public servant for the purposes of the Penal Code (Cap. 224).

PART 2

LICENSING OF FOREIGN EMPLOYEE DORMITORY
OPERATORS**Licence needed to operate foreign employee dormitory, etc.**

7.—(1) Unless exempted under section 32, a person must not operate any boarding premises as a foreign employee dormitory except under the authority of a valid licence for those premises. 5

(2) Unless exempted under section 32, a proprietor of boarding premises must not use (or permit the use of) the premises as a foreign employee dormitory unless those premises are used as such by a licensed operator holding a valid licence relating to those premises. 10

(3) A person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 2 years or to both; and 15

(b) in the case of a second or subsequent conviction, to a fine not exceeding \$1 million or to imprisonment for a term not exceeding 4 years or to both.

(4) It is a defence in proceedings for an offence under subsection (3) for contravening subsection (2) if the proprietor of boarding premises satisfies the court, on a balance of probabilities, that the proprietor did not know, and could not reasonably have been expected to know, that those premises were being used as a foreign employee dormitory otherwise than by the holder of a valid licence relating to those premises. 20 25

(5) An offence under subsection (1) or (2) is an arrestable offence.

(6) To avoid doubt, nothing in subsection (2) affects the law relating to abetment of offences.

Application for licence to operate foreign employee dormitory

8.—(1) An application for a licence is to be made to the Commissioner in such form and manner as the Commissioner may determine, and must be accompanied by an application fee if prescribed. 30

(2) An application for a licence to operate any boarding premises as a foreign employee dormitory must state —

(a) the name and the residential or business address of each proprietor of the premises;

5 (b) the name (if any) and the address of the premises;

(c) the number of residents or prospective residents of the foreign employee dormitory who are foreign employees;

(d) the total number of beds provided as sleeping accommodation for those residents or prospective residents;

10 (e) whether the written permission or authorisation required by the Planning Act (Cap. 232) for the development of the premises has been granted or deemed granted;

(f) the identity of and other particulars about the individual who is to be the manager of the foreign employee dormitory;

15 (g) the prescribed particulars and information; and

(h) such other particulars and information the Commissioner may require in any particular case.

(3) If the Commissioner receives an application for a licence for any boarding premises, the Commissioner may carry out, or arrange to be carried out by dormitory inspectors, such investigations and inquiries in relation to the application as the Commissioner considers necessary for a proper consideration of the application.

25 (4) A dormitory inspector may, for the purpose of making an investigation or inquiry relating to an application for a licence to operate boarding premises as a foreign employee dormitory —

(a) at any reasonable time;

(b) after declaring his or her office and after producing his or her identification card on demand being made; and

(c) with such assistants as may reasonably be required,

30 enter those premises and exercise any powers referred to in subsection (5).

(5) The powers for the purposes of an investigation or inquiry under subsection (4) are —

- (a) to inspect the premises and any equipment, vehicle or other thing at the premises;
- (b) to photograph or film, or make audio recordings or make sketches of, any part of the premises or anything at the premises; 5
- (c) to inspect and make copies of, or take extracts from (without fee or reward) any document kept at the premises;
- (d) to take any document or any other thing at the premises; and 10
- (e) to ask any individual at the premises —
 - (i) to answer a question to the best of that person's knowledge, information and belief; or
 - (ii) to take reasonable steps to provide information or produce a document. 15

(6) A power under subsection (5)(a), (b), (c) or (d) is limited to a document or thing that is used or likely to be used in the management or operation of the premises as a foreign employee dormitory.

(7) Without limiting subsection (5) —

- (a) a dormitory inspector exercising functions under that subsection may be accompanied by — 20
 - (i) one or more police officers; or
 - (ii) one or more medical practitioners who may inspect the premises and observe, examine and speak with any person apparently residing at the premises; and 25
- (b) a dormitory inspector, in exercising his or her power under subsection (5)(a), may also open any ground and remove any flooring and take such measures as may be necessary to ascertain the character and condition of the premises and of any pipe, sewer, drain, wire or fitting. 30

Grant of licence, etc.

9.—(1) After considering any application for a licence, including the results of any investigation and inquiry under section 8(3), the Commissioner may —

- 5 (a) on payment of a licence fee (if prescribed), grant the licence;
 or
 (b) refuse to grant the licence.

10 (2) In determining whether an applicant should be granted a licence under subsection (1), the Commissioner is to have regard to, and give such weight as the Commissioner considers appropriate to, all of the following matters:

- 15 (a) whether the applicant is a suitable person to be involved in the management or operation of a foreign employee dormitory, and where necessary, whether the members of the board of directors or committee or board of trustees or other governing body of an applicant which is a body corporate, are also similarly suitable;
- 20 (b) whether the applicant does not have (or is unlikely to have) the financial capacity to operate the boarding premises as a foreign employee dormitory;
- 25 (c) whether the boarding premises are fit to be used as a foreign employee dormitory for reasons connected with the site, construction, accommodation, staffing or equipment, and with building safety, fire safety and public health and sanitation requirements prescribed by or under this Act or any other written law;
- 30 (d) whether the applicant, any associate of the applicant, or where the applicant is a body corporate, any member of the board of directors or committee or board of trustees or other governing body of the body corporate —
- (i) is disqualified by section 16 or the regulations under section 34 from holding a licence; or
- (ii) has been convicted of an offence under this Act;

(e) whether it is otherwise contrary to the public interest for the licence to be granted to the applicant.

(3) To avoid doubt, the Commissioner is not confined to consideration of the matters specified in subsection (2) and may take into account such other matters and evidence as may be relevant. 5

(4) For the purposes of subsection (2)(d), a person is an associate of another if the person has a relationship with the other in a manner prescribed.

Validity and renewal of licence, etc.

10.—(1) Every licence granted under this Act is to be in such form as the Commissioner may determine. 10

(2) Every licence granted or renewed under this Act is to continue in force for such period as may be specified in the licence (not exceeding 3 years), unless it is earlier revoked or suspended under section 14 or earlier terminated under section 20. 15

(3) The Commissioner may, on the application of a licensed operator to renew the licence —

(a) grant a renewal of the licence on payment of a renewal fee or late renewal fee (if prescribed) with or without adding to, deleting from or varying conditions of the licence; or 20

(b) refuse to renew the licence.

(4) An application to renew a licence must be made no later than 3 months before the date of expiry of the licence (or such longer period as may be prescribed in substitution), unless otherwise allowed by the Commissioner in any particular case which is to be treated as a late renewal application. 25

(5) Sections 8 and 9 apply, with the necessary modifications, to every application to renew a licence as if the application is for a grant of the licence.

(6) To avoid doubt — 30

(a) a licence does not cease only by reason that the boarding premises to which it relates stops being a foreign employee dormitory; and

- (b) section 12 does not apply to or in relation to granting a renewal of a licence with additional, deleted or varied conditions of the licence.

Conditions of licence

5 **11.**—(1) In granting a licence to any person to operate any boarding premises as a foreign employee dormitory, the Commissioner may impose such conditions as the Commissioner considers requisite or expedient having regard to the purposes of this Act.

10 (2) Without prejudice to the generality of subsection (1), a licence to operate any boarding premises as a foreign employee dormitory may include conditions requiring the licensed operator concerned —

(a) to meet all the following standards prescribed, or specified in the licence in so far as they are not prescribed:

15 (i) standards for facilities and services provided to residents including, but not limited to, standards for the maintenance, cleanliness, water supply, sanitation and hygiene of those premises and standards concerning the physical and mental welfare, social activities, personal protection and meals of foreign employees who are resident;

20 (ii) standards for accommodation provided to residents including, but not limited to, standards concerning bedrooms, bathrooms and other rooms or spaces within rooms that are occupied or used by residents;

25 (iii) standards to prevent overcrowding;

(b) to prepare to deal with any public emergency;

(c) to furnish to the Commissioner financial information including accounts in respect of such period and on such basis as may be specified;

30 (d) to furnish persons specified in the licence or the Commissioner, in such manner and at such times as may be similarly specified, with such information as appears to the Commissioner to be requisite or expedient for the purpose of facilitating the exercise by those persons or the Commissioner

of the functions or duties assigned to them or as may be reasonably required for that purpose; and

- (e) to provide or further provide a performance bond, guarantee or other form of security on such terms and conditions as the Commissioner may determine, of such amount as the Commissioner considers appropriate.

(3) A licensed operator who contravenes or fails to comply with a condition of the licensed operator's licence shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months, or to both, for each condition that is contravened or not complied with.

Modification of conditions of licence

12.—(1) Subject to this section, it is lawful for the Commissioner to modify the conditions of a licence without compensating the licensed operator concerned.

(2) Before modifying any conditions of a licence, the Commissioner must, unless subsection (5) applies, give notice to the licensed operator holding that licence —

- (a) stating that the Commissioner proposes to make the modification in the manner as specified in the notice; and
- (b) specifying the time (being not less than 14 days from the date of service of notice on the licensed operator) within which the licensed operator may make written representations to the Commissioner with respect to the proposed modification.

(3) Upon receiving any written representation referred to in subsection (2), the Commissioner must consider that representation and may —

- (a) reject the representation;
- (b) amend the proposed modification in such manner as the Commissioner thinks fit having regard to the representation; or
- (c) withdraw the proposed modification and reinstate the licence condition without modification.

(4) Where —

(a) the Commissioner rejects any written representation under subsection (3)(a);

5 (b) the Commissioner amends any proposed modification to the conditions of the licence under subsection (3)(b); or

10 (c) no written representation is received by the Commissioner within the time specified in subsection (2)(b), or any written representation made under that subsection is subsequently withdrawn, and the licensed operator has not given immediate effect to the modification,

15 the Commissioner is to issue a direction in writing to the licensed operator in question requiring the licensed operator, within the time specified by the Commissioner, to give effect to the modification as specified in the notice under subsection (2) or as amended by the Commissioner under subsection (3), as the case may be.

20 (5) However, where the Commissioner considers that it is impracticable or undesirable, in the circumstances of the particular case because of danger or risk to the security and good order within, or to the safety and health of the residents of, a foreign employee dormitory for him or her to give notice under subsection (2) before modifying the conditions of a particular licence, the Commissioner may, without compensating the licensed operator concerned, and by giving notice to that licensed operator, modify the conditions of the particular licence with immediate effect.

25 (6) The licensed operator whose licence conditions have been modified with immediate effect under subsection (5) may, within 7 days after the Commissioner has given notice under subsection (5), apply to the Commissioner to review his or her decision.

30 (7) On reviewing his or her decision under subsection (6), the Commissioner may —

(a) confirm his or her decision; or

(b) delete or vary the modified licence condition, or reinstate the licence condition without modification, with effect from such

date specified, without compensating the licensed operator concerned,

and there is to be no further review.

(8) An application to review the Commissioner's decision does not affect the operation of the decision under subsection (5) or prevent the taking of action to implement that decision, and unless otherwise allowed by the Commissioner, the decision to be reviewed must be complied with unless the determination of the review indicates otherwise.

Compliance directives

13.—(1) The Commissioner may (without compensation) give a compliance directive if the Commissioner —

(a) considers that the duties imposed by or under this Act in connection with the management of the business of operating boarding premises as a foreign employee dormitory, or the operations of a foreign employee dormitory, are being carried out in a careless or incompetent manner;

(b) is satisfied that a licensed operator has contravened or failed to comply with any condition of the licensed operator's licence, or any code of practice or standard of performance applicable to the licensed operator, and that the contravention or non-compliance may be rectified; or

(c) has reasonable grounds to believe —

(i) that there is a serious and imminent threat or risk to the safety and health of the residents of any boarding premises specified in a licence; or

(ii) that the occurrence within or outside Singapore of any civil unrest, hostilities, war, election or other event (whether or not of a similar kind) may occasion disorder within any boarding premises specified in a licence, or cause feelings of ill-will or hostility between, by or with such residents,

and that a compliance directive is appropriate or requisite to avoid any actual or imminent occurrence that endangers the

safety or health of those residents, to prevent disorder or preserve the safety of those residents, or to avoid serious disruptions to the community in the vicinity of any boarding premises specified in a licence, as the case may be.

5 (2) A compliance directive may be given to either or both the following:

(a) a licensed operator in respect of any boarding premises specified in its licence;

10 (b) the proprietor of the boarding premises operated as a foreign employee dormitory by a licensed operator where the Commissioner receives a statutory declaration from the licensed operator under subsection (7) and is satisfied that compliance by the licensed operator with the compliance directive requires the permission or other co-operation of that proprietor.

15 (3) A compliance directive given under subsection (1) —

(a) may require the licensed operator or proprietor concerned (according to the circumstances of the case) to do, or to refrain from doing, such things as are specified in the directive or are of a description as specified therein;

(b) is to take effect at such time, being the earliest practicable time, as is determined by or under that directive; and

(c) may be revoked at any time by the Commissioner.

(4) Without limiting subsection (3)(a), a compliance directive —

25 (a) may include the measures to be taken to remedy any contravention or non-compliance to which the directive relates or to otherwise comply with the directive;

(b) may offer the licensed operator or proprietor to whom it is given a choice of ways in which to remedy the contravention or non-compliance or to comply with the directive;

30 (c) may order the licensed operator or proprietor to stop the boarding premises being used as a foreign employee dormitory for a period not exceeding 3 months in order to

deal with a serious and imminent threat or risk to the safety and health of the residents of those boarding premises; and

- (d) where the circumstances in subsection (1)(c) apply, may order the licensed operator to check or control the movement of residents in those boarding premises, including restricting entry to and exit from those premises.

(5) Every licensed operator or proprietor of a foreign employee dormitory must comply with every compliance directive given under this section to the licensed operator or proprietor, as the case may be, as soon as it takes effect.

(6) Without prejudice to the right of the Commissioner to exercise the powers under subsection (8) —

- (a) the licensed operator of a foreign employee dormitory who, without reasonable excuse, contravenes or fails to comply with a requirement imposed by a compliance directive given to the licensed operator (whether or not the same directive is also given to a proprietor); or

- (b) the proprietor of a foreign employee dormitory who, without reasonable excuse, contravenes or fails to comply with a requirement imposed by a compliance directive given to the proprietor (whether or not the same directive is also given to a licensed operator),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for each day or part thereof the offence continues after conviction.

(7) A licensed operator given a compliance directive to demolish, renovate or otherwise alter any part of the premises specified in the licence of the licensed operator may, within 7 days after receiving the directive, provide the Commissioner a statutory declaration stating —

- (a) a statement that by reason of any arrangements (by contract or otherwise) with the proprietor of the boarding premises operated as a foreign employee dormitory, the licensed operator is not entitled to do, or to refrain from doing, such

things as are specified or described in the compliance directive, and describing those arrangements; and

(b) the name and address of the proprietor.

(8) If a compliance directive is not complied with to his or her satisfaction, the Commissioner may carry out or cause to be carried out all or any of the repairs, work or alteration specified in that directive, and recover (as a debt due to the Government) all expenses reasonably incurred by him or her in the exercise of powers under this subsection from the licensed operator or the proprietor of a foreign employee dormitory in default.

(9) It shall not be necessary to publish any compliance directive given under this section in the *Gazette*, or for the Commissioner to provide a licensed operator or proprietor reasonable opportunity to be heard before giving the licensed operator or proprietor a compliance directive.

Suspension or revocation, etc., of licence

14.—(1) Subject to subsection (3), if the Commissioner is satisfied that —

(a) a licensed operator is contravening or not complying with, or has contravened or failed to comply with —

(i) any of the conditions of the licence or any code of practice or standard of performance applicable to the licensed operator; or

(ii) any provision of this Act applicable to the licensed operator,

whether or not the licensed operator has been convicted of an offence for the contravention or non-compliance;

(b) the continued use of the boarding premises as a foreign employee dormitory under the licence would constitute an unacceptable risk to the safety, welfare or well-being of residents at those premises;

(c) the licensed operator has not complied with any compliance directive or business restriction directive, whether or not the

licensed operator has been convicted of an offence under section 13(6) or 15(3), as the case may be;

- (d) the licensed operator has gone or is likely to go into compulsory or voluntary liquidation other than for the purpose of amalgamation or reconstruction; 5
- (e) the licensed operator has made any assignment to, or composition with, any creditors of the licensed operator; or
- (f) the public interest or security of Singapore requires,

the Commissioner may take regulatory action described in subsection (2). 10

(2) The regulatory actions that the Commissioner may take against a licensed operator are —

- (a) revoke (without any compensation) a licensed operator's licence, with or without forfeiting any performance bond, guarantee or other form of security furnished under paragraph (b)(iv) or section 11(2)(e); or 15
- (b) in lieu of revoking the licence, any one or more (without compensation) of the following:
 - (i) issue a letter of censure to the licensed operator;
 - (ii) modify the conditions of the licensed operator's licence; 20
 - (iii) give a business restriction directive to the licensed operator;
 - (iv) require the licensed operator to furnish a performance bond, guarantee or other form of security, or an additional performance bond, guarantee or other form of security; 25
 - (v) forfeit the whole or part of any performance bond, guarantee or other form of security furnished under sub-paragraph (iv) or section 11(2)(e); 30
 - (vi) suspend (for not more than 6 months) the licensed operator's licence.

(3) Before exercising any powers under this section, the Commissioner must give written notice to the licensed operator concerned —

5 (a) stating that the Commissioner intends to take regulatory action against the licensed operator under this section;

 (b) specifying the type of action the Commissioner proposes to take, and each instance of non-compliance that is the subject of the action; and

10 (c) specifying the time (being not less than 14 days after the date of service of notice on the licensed operator) within which written representations may be made to the Commissioner with respect to the proposed action.

(4) The Commissioner may —

15 (a) after considering any written representation made in accordance with subsection (3); or

 (b) after the time delimited under subsection (3)(c) lapses if no representation is so made,

decide to take such regulatory action in subsection (2) as the Commissioner considers appropriate.

20 (5) Where the Commissioner has made any decision under subsection (4) against any licensed operator, the Commissioner must serve on the licensed operator concerned a notice of his or her decision.

25 (6) Subject to section 22(7), a decision to revoke a licence, or to impose a regulatory action in subsection (2)(b) which is specified in the notice given under subsection (5), is to take effect from the date on which that notice is given, or on such other date as may be specified in the notice.

30 (7) The revocation or suspension of any licence does not prejudice the enforcement by any person of any right or claim against the licensed operator or former licensed operator, or by the licensed operator or former licensed operator of any right or claim against any person.

(8) In any proceedings under this section in relation to the conviction of a licensed operator for a criminal offence, the Commissioner is to accept the licensed operator's conviction as final and conclusive.

Business restriction directive

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15.—(1) A business restriction directive may include a direction to a licensed operator to do one or more of the following:

- (a) not to enter into an occupancy agreement for the purpose of any foreign employee becoming a new resident of the boarding premises specified in the licensed operator's licence; 10
- (b) not to enter into, or renew or extend, an occupancy agreement that enables a foreign employee to continue as a resident of the boarding premises specified in the licensed operator's licence;
- (c) not to enter into, or renew or extend, an occupancy agreement referred to in paragraph (a) or (b) except in accordance with such terms as the Commissioner may specify; 15
- (d) not to accept anyone as a new resident of the boarding premises specified in the licensed operator's licence;
- (e) not to allow anyone to continue as a resident of the boarding premises specified in the licensed operator's licence if the occupancy agreement for that individual expires or lapses; 20
- (f) to inform the proprietor of the boarding premises specified in the licensed operator's licence of any directions in paragraph (a), (b), (c), (d) or (e) to the licensed operator, where the licensed operator is not also the proprietor. 25

(2) Any purported entry, renewal or extension of an occupancy agreement in contravention of a business restriction directive is void and of no effect.

(3) A licensed operator who, without reasonable excuse, contravenes or fails to comply with a requirement imposed by a business restriction directive shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both. 30

Disqualification from holding licence

16.—(1) Where a licence to operate boarding premises as a foreign employee dormitory is revoked under section 14, the person who was the holder of that licence is also disqualified, for such period as may be specified by the Commissioner —

(a) from holding a licence for the same premises or such other premises, as the Commissioner is to specify in the order; and

(b) from being a manager of those premises as a foreign employee dormitory or any foreign employee dormitory.

(2) Any licence obtained by a person while disqualified by an order of the Commissioner under this section from obtaining such a licence is of no effect.

Restriction on transfer of licence

17.—(1) No licence is to be transferred or assigned to any person without the prior consent in writing of the Commissioner.

(2) Any purported transfer or assignment of a licence in contravention of this section is void and of no effect.

(3) Any consent under subsection (1) may be given subject to compliance with such conditions as the Commissioner thinks fit to impose, which may, subject to section 12, include conditions modifying, or requiring or otherwise providing for the making of modifications to, the conditions of the licence.

Annual returns of foreign employee dormitory

18.—(1) A licensed operator must, within the prescribed period after the end of the annual reporting period for the boarding premises specified in the licensed operator's licence, give notice to the Commissioner of the changes, if any, as at the end of that reporting period, in any of the particulars referred to in section 8(2).

(2) In subsection (1), “annual reporting period” for boarding premises specified in a licence, is the period of 12 months starting on the date the licence for those premises was granted or the last anniversary of that date, whichever is the later.

(3) However, nothing in subsection (1) prevents any condition being imposed on the licence for a foreign employee dormitory requiring the giving of particulars to the Commissioner for the purposes of this Act on a more frequent basis than annually.

(4) A licensed operator who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

Codes of practice or standards of performance

19.—(1) The Commissioner may, from time to time —

- (a) issue one or more codes of practice or standards of performance applicable to licensed operators;
- (b) approve as a code of practice or standard of performance applicable to licensed operators any document prepared by a person other than the Commissioner if the Commissioner considers the document as suitable for this purpose; or
- (c) amend or revoke any code of practice or standard of performance issued under paragraph (a) or approved under paragraph (b),

with respect to all or any of the following:

- (i) the management and operations of boarding premises as a foreign employee dormitory;
- (ii) the provision of services and facilities in boarding premises operated as a foreign employee dormitory;
- (iii) the quality of aspects of such services and facilities.

(2) A code of practice or standard of performance may, in particular, specify the duties and obligations of any licensed operator in relation to the licensed operator's business operation in so far as it relates to the provision of boarding premises as a foreign employee dormitory in Singapore.

(3) If any provision in any code of practice or standard of performance is inconsistent with any provision of this Act, such provision, to the extent of the inconsistency —

(a) is to have effect subject to the provisions of this Act; and

(b) having regard to the provisions of this Act, is not to have effect.

5 (4) Where a code of practice or standard of performance is issued, approved, amended or revoked by the Commissioner under subsection (1), the Commissioner must —

10 (a) publish a notice of the issue, approval, amendment or revocation, as the case may be, of the code of practice or standard of performance in such manner as will secure adequate publicity for such issue, approval, amendment or revocation;

(b) specify in the notice referred to in paragraph (a) the date of issue, approval, amendment or revocation, as the case may be; and

15 (c) ensure that, so long as the code of practice or standard of performance remains in force, copies of that code or standard, and of all amendments to that code or standard, are available for inspection by any licensed operator of a foreign employee dormitory and any foreign employee.

20 (5) No code of practice or standard of performance, no amendment to an approved code of practice or standard of performance, and no revocation of any such approved code of practice or standard of performance, shall have any force or effect as an approved code of practice or standard of performance until the notice relating thereto is
25 published in accordance with subsection (4).

(6) A code of practice or standard of performance issued or approved under this section does not have legislative effect.

30 (7) Subject to subsection (8), every licensed operator must comply with the relevant codes of practice and standards of performance applicable to the licensed operator.

(8) The Commissioner may, either generally or for such time as the Commissioner may specify, waive the application of any code of practice or standard of performance, or part thereof, issued or approved under this section to any licensed operator.

(9) Any contravention or failure to comply by a person with a code of practice or standard of performance that applies to the person does not of itself render the person liable to criminal proceedings, but any such contravention or failure may, in any proceedings (criminal or otherwise under this Act) in connection with an offence under this Act be relied on by any party to those proceedings as tending to establish or negative any liability which is in question in those proceedings.

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Notice of stoppage of use as foreign employee dormitory

20.—(1) A licensed operator operating boarding premises as a foreign employee dormitory must not, without the prior approval of the Commissioner to do so —

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(a) wholly and permanently cease operating the boarding premises in its licence; or

(b) for any reason surrender the licensed operator's licence.

(2) An application by a licensed operator for approval under subsection (1) must be made to the Commissioner at least 28 days (or such longer period as may be prescribed in substitution) immediately before the following date, whichever being applicable:

15

(a) the date on which operations of the boarding premises are to wholly and permanently cease;

20

(b) the date on which the licensed operator intends the surrender of the licence to take effect.

(3) In granting any approval, the Commissioner may impose such conditions as he or she thinks fit, including but not limited to directing the licensed operator to provide assistance to foreign employees who are residents of the boarding premises specified in the licence to find alternative accommodation in Singapore.

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(4) The Commissioner may terminate a licence that is surrendered only upon the satisfaction of all conditions of his or her approval imposed under subsection (3).

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(5) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 2 years or to both.

(6) A person who contravenes or fails to comply with any condition imposed under subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

5 **Register**

21.—(1) The Commissioner is to keep a Register of licensed operators of foreign employee dormitories.

(2) The Register may be kept in such form as the Commissioner considers appropriate.

10 (3) The Commissioner may record in the Register in relation to a foreign employee dormitory —

(a) particulars of any enforcement or regulatory action taken in respect of the foreign employee dormitory, its proprietor or licensed operator or any of its staff; and

15 (b) any other particulars or information that the Commissioner considers appropriate or that may be prescribed.

(4) The Commissioner is to ensure that information on the Register is kept up-to-date and may arrange for such information in the Register as the Commissioner considers appropriate to be available to the public without charge.

(5) The Register is evidence of the particulars or information recorded in it.

25 (6) A certificate signed or purporting to be signed by the Commissioner and stating that the premises named in the certificate were or were not licensed at a specified time, or stating any other particulars or information recorded in the Register at a specified time, is admissible in any legal proceedings and is evidence of the matters stated in the certificate.

PART 3
APPEALS

Appeal to Minister

22.—(1) The former holder of the licence revoked (called the appellant) may appeal to the Minister against the decision by the Commissioner under section 14 to revoke the licence. 5

(2) An appeal must be in writing and specify the grounds on which it is made, and be made within a prescribed period after the date of receipt of the decision that is appealed against.

(3) The Minister may reject an appeal of an appellant who fails to comply with subsection (2). 10

(4) After consideration of an appeal, the Minister may —

(a) reject the appeal and confirm the Commissioner’s decision; or

(b) allow the appeal and substitute or vary the Commissioner’s decision. 15

(5) The Minister’s decision on an appeal is final.

(6) Every appellant must be notified of the Minister’s decision under subsection (5).

(7) An appeal against the Commissioner’s decision does not affect the operation of the decision or prevent the taking of action to implement the decision, and unless otherwise directed by the Minister, the decision appealed against must be complied with until the determination of the appeal. 20

Designation of persons to hear appeals

23. The Minister may designate to hear and determine, in his or her place, any appeals or a specific appeal under section 22 — 25

(a) any Minister of State or Parliamentary Secretary for his or her Ministry; or

(b) any public officer in his or her Ministry not subordinate to the Commissioner whose decision is appealed against, 30

and any reference in that section to the Minister includes a reference to the Minister of State, Parliamentary Secretary or public officer so designated for that appeal.

PART 4

ENFORCEMENT

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Powers of entry, etc., for enforcement purpose

24.—(1) A police officer or a dormitory inspector may, for an enforcement purpose, do all or any of the following in relation to any boarding premises (whether or not a foreign employee dormitory that is the subject of a licence):

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(a) to enter and inspect, without warrant, the premises, and to inspect any equipment, vehicle or other thing at the premises;

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(b) to photograph or film, or make audio recordings or make sketches of, any part of the premises or anything at the premises and of any individual apparently residing at the premises;

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(c) to enter and search, in the day or night, the premises, if the police officer or dormitory inspector has reasonable cause to believe that evidence of the commission of an offence under this Act can be found at those premises;

(d) to detain any individual found within those premises until the search of the premises is complete;

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(e) to inspect and make copies of, or take extracts from (without fee or reward) any document kept at the premises;

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(f) to take any document or any other thing at the premises if the police officer or dormitory inspector considers it necessary to do so for the purpose of obtaining evidence of an offence under this Act, including asking any individual who is able to operate any equipment at the premises to do so for the purpose of enabling the police officer or dormitory inspector to ascertain whether the equipment, or a disk, tape or other storage device that can be used or associated with the equipment, contains information that is relevant;

- (g) to require any person whom the police officer or dormitory inspector has reason to believe to be in possession of any document (including travel documents or documents of identity) or information relevant to the purposes of this Act to take reasonable steps to produce the document or provide the information; 5
- (h) to require any person whom the police officer or dormitory inspector has reason to believe to be acquainted with any facts or circumstances relevant to the carrying out of the provisions of this Act — 10
- (i) to answer any question to the best of that person’s knowledge, information and belief, immediately or at such place and time specified in writing; or
- (ii) to take reasonable steps to provide information or produce a document, immediately or at such place and time specified in writing; 15
- (i) to require the manager of the premises to produce all or any of the residents of those premises or the occupancy agreements for the residents of those premises.
- (2) The power to require a person to provide information or produce a document under subsection (1)(g) or (h) includes the power — 20
- (a) to require that person, or any person who is or was an officer or employee of that person, to provide an explanation of the document or information;
- (b) if the document or information is not furnished, to require that person to state, to the best of his or her knowledge and belief, where it is; and 25
- (c) if the information is recorded otherwise than in legible form, to require the information to be made available to the police officer or dormitory inspector in legible form. 30
- (3) Where any document or information the production of which has been required of a person under subsection (1)(h) has not been produced in compliance with that requirement, and the police officer or dormitory inspector concerned has reasonable grounds to believe

that the person will not attend to produce the document or information in compliance with that requirement, the police officer or dormitory inspector may apply to a Magistrate for the issue of a warrant to secure the attendance of that person for that purpose.

5 (4) If entry to any boarding premises referred to in subsection (1) cannot be obtained, a police officer or dormitory inspector may, where the police officer or dormitory inspector has reasonable cause to believe that evidence of the commission of an offence under this Act can be found at those premises —

10 (a) after declaring his or her office and after producing his or her identification card on demand being made; and

(b) with such force as is necessary to obtain entry,

break open any door or window leading to the premises, or remove by force any obstruction to such entry or search.

15 (5) Without limiting subsection (1) —

(a) a dormitory inspector exercising any function under this section may be accompanied by one or more medical practitioners and any such medical practitioners may inspect the premises and observe, examine and speak with
20 any person apparently residing at the premises; and

(b) a dormitory inspector, in exercising his or her power under subsection (1)(a) or (c), may also open any ground and remove any flooring and take such measures as may be necessary to ascertain the character and condition of the
25 premises and of any pipe, sewer, drain, wire or fitting.

(6) Any person asked under subsection (1)(g) or (h) shall be bound to state truly what the person knows of the facts and circumstances concerning matters under this Act, except that the person need not say anything that might expose that person to a criminal charge, penalty or
30 forfeiture.

(7) A statement made by any person asked under this section must —

(a) be reduced to writing;

(b) be read over to the person;

- (c) if he or she does not understand English, be interpreted for the person in a language that he or she understands; and
 - (d) after correction, if necessary, be signed by that person.
- (8) In this section, “enforcement purpose” means —
- (a) ensuring that the provisions of this Act and the regulations made under section 34 with respect to boarding premises operated as foreign employee dormitories, a code of practice or standard of performance, and any conditions imposed on a licence or any other consent, approval or authorisation under this Act with respect to boarding premises operated as foreign employee dormitories, are being complied with; or
 - (b) investigating any offence under this Act or any contravention of or non-compliance with a provision of this Act or a code of practice or standard of performance.

Power to arrest

25.—(1) A police officer or a dormitory inspector may arrest without warrant any individual whom the police officer or dormitory inspector, as the case may be, reasonably suspects is committing or has committed an offence under section 7.

(2) For the purposes of this section, an officer or a member of a body corporate or an unincorporated association or a partner of a partnership who is liable for an offence under section 7 by virtue of section 27 is to be regarded as having committed the offence.

(3) A police officer or a dormitory inspector making an arrest without warrant must, without unnecessary delay and subject to subsection (4), take or send the individual arrested before a Magistrate’s Court.

(4) A dormitory inspector must not detain in custody any individual arrested without warrant for longer than is reasonable in the circumstances, and the period must not in any case exceed 48 hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate’s Court.

(5) An individual who has been arrested by a police officer or a dormitory inspector under this section may be released on bail, or on the individual's own bond, by a police officer or dormitory inspector.

5 (6) The provisions of Division 5 of Part VI of the Criminal Procedure Code (Cap. 68) apply to any bail or bond granted under this section; and for this purpose, any reference in those provisions to "officer", "police officer" or "police officer of or above the rank of sergeant" is to be read as a reference to a dormitory inspector.

10 (7) Sections 21A to 21G of the Employment of Foreign Manpower Act (Cap. 91A) shall apply, with the necessary modifications, to an arrest under this section by a dormitory inspector for or in relation to an offence.

15 (8) In this section, a reference to an offence under section 7 includes a reference to an abetment of, or a conspiracy or an attempt to commit, the offence.

(9) To avoid doubt, nothing in this section affects a police officer's powers or duties under the Criminal Procedure Code.

Offence of providing false information, etc.

26.—(1) If —

- 20 (a) a person furnishes a document, or makes a statement (whether orally, in writing or any other way) or gives information, to the Commissioner or a dormitory inspector;
- 25 (b) the document, statement or information is false or misleading, or the statement or information omits any matter or thing without which the statement or information, as the case may be, is misleading;
- (c) the person knows, or ought reasonably to know, that the document is false or misleading, or that the statement or information is as described in paragraph (b); and
- 30 (d) the document is furnished in, or the statement is made or the information is given in, or in connection with —
- (i) an application (whether for that person or for another) for a licence or renewal of a licence;

- (ii) a representation requested under section 13 or 14; or
- (iii) a question or request of a dormitory inspector under section 24(1) or (2),

the person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) Subsection (1) does not apply if the document, statement or information is not false or misleading in a material particular, or if the statement or information did not omit any matter or thing without which the statement or information, as the case may be, is misleading in a material particular.

(3) A person who refuses to give access to, or obstructs, hinders or delays the Commissioner or any other dormitory inspector in the discharge of his or her duties under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) It shall not be an offence under subsection (3) for any person to refuse to comply with any request, demand or order made or given by the Commissioner or any dormitory inspector who fails to declare his office and refuses to produce his or her identification card on demand being made by that person.

Offences by bodies corporate, etc.

27.—(1) Where an offence under this Act committed by a body corporate is proved —

(a) to have been committed with the consent or connivance of an officer of the body corporate; or

(b) to be attributable to any neglect on the officer's part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults

of a member in connection with the member's functions of management as if that member were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved —

5 (a) to have been committed with the consent or connivance of a partner; or

 (b) to be attributable to any neglect on the partner's part,
the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

10 (4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

 (a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

15 (b) to be attributable to any neglect on the part of such an officer or a member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

20 (5) In this section —

 “body corporate” includes a limited liability partnership which has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

 “officer” —

25 (a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

30 (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position

analogous to that of president, secretary or member of the committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

Composition of offences

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28.—(1) The Commissioner may compound any offence under this Act which is prescribed as a compoundable offence by collecting from the person reasonably suspected of having committed the offence a sum not exceeding the lower of the following:

(a) one half of the amount of the maximum fine that is prescribed for the offence;

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(b) \$5,000.

(2) On payment of such sum of money, no further proceedings are to be taken against that person in respect of the offence.

(3) All sums collected under this section are to be paid into the Consolidated Fund.

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PART 5

MISCELLANEOUS

Foreign employee dormitory deemed to be public place

29. Every foreign employee dormitory is deemed to be a public place for the purposes of section 18 of the Miscellaneous Offences (Public Order and Nuisance) Act (Cap. 184).

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Service of documents

30.—(1) A document that is permitted or required by this Act to be served on a person may be served as described in this section.

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(2) A document permitted or required by this Act to be served on an individual may be served —

(a) by giving it to the individual personally;

(b) by sending it by pre-paid registered post to the address specified by the individual for the service of documents or, if

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no address is so specified, the individual's residential address or business address;

- (c) by leaving it at the individual's residential address with an adult apparently resident there, or at the individual's business address with an adult apparently employed there;
- (d) by affixing a copy of the document in a conspicuous place at the individual's residential address or business address;
- (e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; or
- (f) by sending it by email to the last email address of the individual.

(3) A document permitted or required by this Act to be served on a partnership (other than a limited liability partnership) may be served —

- (a) by giving it to any partner, secretary or other like officer of the partnership;
- (b) by leaving it at, or by sending it by pre-paid registered post to, the partnership's business address;
- (c) by sending it by fax to the fax number used at the partnership's business address; or
- (d) by sending it by email to the partnership's last email address.

(4) A document permitted or required by this Act to be served on a body corporate (including a limited liability partnership) or an unincorporated association may be served —

- (a) by giving it to the secretary or other like officer of the body corporate or unincorporated association, or the limited liability partnership's manager;
- (b) by leaving it at, or by sending it by pre-paid registered post to, the registered office or principal office in Singapore of the body corporate or unincorporated association;

- (c) by sending it by fax to the fax number used at the registered office or principal office in Singapore of the body corporate or unincorporated association; or
 - (d) by sending it by email to the last email address of the body corporate or unincorporated association. 5
- (5) Service of a document under subsection (1) takes effect —
- (a) if the document is sent by fax and a notification of successful transmission is received, on the day of transmission;
 - (b) if the document is sent by email, at the time that the email becomes capable of being retrieved by the person to whom it is addressed; and 10
 - (c) if the document is sent by pre-paid registered post, 2 days after the day the document was posted (even if it is returned undelivered).
- (6) This section does not apply to documents to be served in proceedings in court. 15
- (7) In this section —
- “business address” means —
- (a) in the case of an individual, the individual’s usual or last known place of business in Singapore; or 20
 - (b) in the case of a partnership (other than a limited liability partnership), the partnership’s principal or last known place of business in Singapore;
- “last email address” means the last email address given by the addressee concerned to the person giving or serving the document as the email address for the service of documents under this Act, or the last email address of the addressee concerned known to the person giving or serving the document; 25
- “residential address” means an individual’s usual or last known place of residence in Singapore. 30

Protection from personal liability

5 **31.** No liability shall lie against the Commissioner, a Deputy Commissioner for Foreign Employee Dormitories, an Assistant Commissioner for Foreign Employee Dormitories or any other dormitory inspector for anything done or intended to be done with reasonable care and in good faith in the execution or purported execution of this Act.

General exemption

10 **32.** The Minister may, by order published in the *Gazette*, exempt any person or class of persons from all or any provisions of this Act, either generally or in a particular case and subject to such conditions as the Minister may impose.

Jurisdiction of courts

15 **33.** Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court or a Magistrate's Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

Regulations

20 **34.—(1)** The Minister may make regulations necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, the Minister may make regulations for any of the following:

- 25 (a) classes of licences;
- (b) the form and manner in which, and the time within which, an application for a licence or an application to renew a licence may be made, and the information and evidence required to be provided in connection with such an application;
- 30 (c) the carrying out of probity checks of applicants for a licence, and of individuals who are or are proposed to be a manager of boarding premises operated as a foreign employee dormitory;

- (d) the duties of licensed operators in connection with operating foreign employee dormitories;
 - (e) the appointment, duties and qualifications of managers of boarding premises operated as foreign employee dormitories, including but not limited to the maximum number of such premises in respect of which the manager may be appointed as manager; 5
 - (f) standards to be observed and facilities to be provided in boarding premises operated as foreign employee dormitories to prevent overcrowding, for the maintenance, cleanliness, water supply, sanitation and hygiene of the premises, and generally in connection with the health, safety and well-being of foreign employees residing at such premises; 10
 - (g) a standard form of occupancy agreement, for use for different classes of boarding premises operated as foreign employee dormitories, occupancy agreements or parties and the enforceability of occupancy agreements that are not in the standard form, except that the terms of standard forms of occupancy agreements must not apply to occupancy agreements entered into before the regulations for those standard forms took effect; 15 20
 - (h) the fees to be paid in respect of applications for and the grant and renewal or late renewal of any licence, and otherwise in connection with the administration of this Act, and the waiver, reduction or refund of fees charged; 25
 - (i) the records that are to be kept by licensed operators and managers of boarding premises operated as foreign employee dormitories and the provision of returns and other information with respect to such premises.
- (3) In particular, the Minister may, for the purposes of the definition of “boarding premises” in section 2(1), make regulations — 30
- (a) prescribing that the buildings, structures or facilities of a specified or described nature, or adapted or designed in a specified or described way, are to be regarded by the

Commissioner under section 2(2) as a single complex of premises in the administration of this Act; or

(b) prescribing criteria by which it is to be determined by the Commissioner under section 2(2) whether buildings, structures or facilities are to be regarded as a single complex of premises in the administration of this Act.

(4) In particular, the Minister may, for the purposes of the definition of “occupancy load” in section 2(1), make regulations —

(a) prescribing the criteria by which the Commissioner is to determine the occupancy load of any premises; and

(b) adopting or incorporating by reference, any number —

(i) contained in or prescribed by or under any written law as in force at a particular time or from time to time relating to maximum occupancy of boarding premises; or

(ii) contained in or specified by any agreement, permission, approval, authorisation or other document (by whatever name) made with, issued or granted or to be made with, issued or granted, to a proprietor or an operator of boarding premises relating to its maximum occupancy by a public authority.

(5) Regulations made under this section may —

(a) prescribe the offences under this Act which may be compounded;

(b) provide that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$50,000 or with imprisonment for a term not exceeding 3 years or with both; and

(c) provide for such transitional, savings and other consequential, incidental and supplemental provisions as the Minister considers necessary or expedient.

(6) All regulations made under this section are to be presented to Parliament as soon as possible after publication in the *Gazette*.

Transitional and savings provision

35.—(1) Despite anything in this Act —

(a) a person who, on the date of commencement of this Act, is operating boarding premises as a foreign employee dormitory; and 5

(b) a person who, on the date of commencement of this Act, has written permission under the Planning Act (Cap. 232) to develop (within the meaning of that Act) any land as a foreign employee dormitory,

may continue to operate those boarding premises as a foreign employee dormitory, or develop and operate that land as a foreign employee dormitory, as the case may be, for 6 months after that date, and if, within that period, the person applies for a licence under Part 2, the person may continue to do so until the earlier of the following: 10

(i) the date on which the Commissioner issues a licence to the person; 15

(ii) the date that the application for a licence is finally refused or is withdrawn.

(2) For a period of 2 years after the date of commencement of this section, the Minister may, by regulations, prescribe such additional provisions of a savings or transitional nature consequent on the enactment of this section as the Minister may consider necessary or expedient. 20

(3) Except as expressly provided in this section, this section shall apply without prejudice to section 16 of the Interpretation Act (Cap. 1). 25

EXPLANATORY STATEMENT

This Bill seeks to regulate operators of foreign employee dormitories.

Part 1 introduces the fundamental concepts used in the Bill, including definitions for “dormitory inspector”, “occupancy agreement” and “resident”.

Part 2 contains the regulatory framework for operators of foreign employee dormitories.

Part 3 provides for appeals to the Minister against the decision of the Commissioner for Foreign Employee Dormitories (the Commissioner).

Part 4 deals with powers of inspection and enforcement for the proper administration of the Bill.

Part 5 contains a variety of provisions including transitional arrangements for existing operators of foreign employee dormitories.

PART 1

PRELIMINARY

Clause 1 relates to the short title and commencement.

Clause 2 is a general definition provision. The clause contains definitions of terms used in several Parts of the Bill.

A “foreign employee” is defined to mean a foreigner who seeks employment, or is employed to work, in Singapore but excludes a self-employed foreigner. The term also includes a foreigner whose employment in Singapore has expired or has been terminated (whether or not for justified reasons) and is authorised under the Immigration Act (Cap. 133) to remain in Singapore. An example of foreigners in the latter group are those whose work passes have been cancelled but are granted a special pass to stay on in Singapore to pursue claims for compensation or salary.

A “proprietor” of boarding premises is defined to include the lessor or grantor of premises that are leased or the subject of a licence to occupy.

The key term “boarding premises” is defined to mean premises (or a complex of premises) that provide boarders or lodgers with a principal place of residence, and may have shared facilities (such as a communal living room, bathroom, laundry or kitchen) or services that are provided to boarders or lodgers, and have rooms (some or all of which may have private kitchen or bathroom facilities) that accommodate one or more boarders or lodgers.

Clause 3 defines the premises called a “foreign employee dormitory”.

A “foreign employee dormitory” is defined to mean any boarding premises that provides 1,000 (the threshold number) beds or higher to residents who are foreign employees, or provides accommodation to 1,000 (the threshold number) residents who are foreign employees. Boarding premises may also be regarded as a foreign employee dormitory if it has the prescribed occupancy load and is providing accommodation substantially to foreign employees.

However, premises that are used as a hotel, an inn, a hostel or a bed and breakfast accommodation, a serviced apartment, premises like a convalescent

home or nursing home, student dormitories and residences such as houses, flats and apartments do not come within the meaning of the expression “foreign employee dormitory”. The Minister has power to exclude more premises from that expression through an order published in the *Gazette*.

The “threshold number” of 1,000 may also be replaced with a lower number by the Minister making a notification published in the *Gazette*.

Clause 4 sets out the purposes of the Bill, which is to provide a regulatory framework for the provision of facilities and amenities, and the delivery of services, to residents of foreign employee dormitories who are foreign employees. The Bill provides for the licensing of operators of foreign employee dormitories, for certain accommodation standards to be observed with respect to the accommodation of residents of foreign employee dormitories and for the appropriate mechanisms for the enforcement of those standards, and seeks to promote the sustainability of, and continuous improvements in, the provision of services at foreign employee dormitories.

Clause 5 explains the interface between the Bill and other existing laws that can apply with respect to operations of a foreign employee dormitory. Essentially, the Bill is not to operate in a way that derogates from any requirement imposed by or under the Building Control Act (Cap. 29), the Environmental Public Health Act (Cap. 95), the Fire Safety Act (Cap. 109A), the Control of Vectors and Pesticides Act (Cap. 59) and the Planning Act (Cap. 232).

The Minister may by regulations under clause 34 prescribe other written law with respect to the use of premises as, or the provision of services to residents of foreign employee dormitories that should not be affected by the Bill. This is to reduce or help clarify any overlap in regulatory requirements.

Clause 6 provides for the appointment of a Commissioner, Deputy Commissioners for Foreign Employee Dormitories, Assistant Commissioners for Foreign Employee Dormitories and dormitory inspectors.

PART 2

LICENSING OF FOREIGN EMPLOYEE DORMITORY OPERATORS

Part 2 sets out the framework for licensing of operators of foreign employee dormitories.

Clause 7 makes it an offence for a person to operate any boarding premises as a foreign employee dormitory except under the authority of a licence that relates to those premises. The clause also makes it an offence if a proprietor of boarding premises uses (or permits the use of) the premises as a foreign employee dormitory unless those premises are used as such by a licensed operator holding a valid licence relating to those premises. These are arrestable offences.

The penalty is a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 2 years or to both. In the case of a second or subsequent conviction, the penalty is a fine not exceeding \$1 million or to imprisonment for a term not exceeding 4 years or to both.

Clause 8 deals with applications for a licence. The Commissioner may, on receiving an application for a licence to operate any boarding premises as a foreign employee dormitory, carry out, or arrange to be carried out by dormitory inspectors, such investigations and inquiries in relation to the application as the Commissioner considers necessary for a proper consideration of the application.

Clause 9 deals with the granting of a licence by the Commissioner and the factors that are to be taken into account when doing so.

Clause 10 is concerned with the validity period and form of the licence and its renewal. The clause also provides that a licence does not cease only by reason that the boarding premises to which it relates stops providing beds of the threshold number or accommodation of the threshold number, etc.

Clause 11 deals with conditions of a licence. These conditions may include a requirement to meet standards prescribed in regulations, or specified in the licence in so far as they are not prescribed, relating to services provided to residents (such as standards concerning the physical and mental welfare, social activities, personal protection and meals of residents) and relating to accommodation provided to residents (such as standards concerning bedrooms, bathrooms and other rooms that are occupied or used by residents). Licence conditions may also include requirements for licensed operators to prepare to deal with any public emergency.

Clause 12 empowers the Commissioner to add to, delete or modify the conditions of a licence after observing the process prescribed in the clause.

Clause 13 further empowers the Commissioner to give compliance directives without compensation.

Compliance directives may be given where the Commissioner considers that the duties imposed by or under the Bill in connection with the management of the business of operating the foreign employee dormitory, or the operations of the foreign employee dormitory, specified in the licensed operator's licence are being carried out in a careless or incompetent manner.

The Commissioner may also give a compliance directive if satisfied that the licensed operator has contravened or failed to comply with any condition of the licence, or any code of practice or standard of performance, and that the contravention or non-compliance may be rectified.

Finally, a compliance directive may also be given if the Commissioner has reasonable grounds to believe there is such a serious and imminent threat or risk to the safety and health of the residents of any boarding premises specified in a

licence that a compliance directive is appropriate or requisite to avoid any actual or imminent occurrence that endangers the safety and health of those residents.

Alternatively, a compliance directive may be given where the Commissioner has reasonable grounds to believe that the occurrence within or outside Singapore of any civil unrest, hostilities, war, election or other event (whether or not of a similar kind) may occasion disorder within any boarding premises specified in a licence, or cause feelings of ill-will or hostility between, by or with residents in any boarding premises specified in a licence, and that a compliance directive is appropriate or requisite to prevent disorder or preserve the safety of those residents, or to avoid serious disruptions to the community in the vicinity of any boarding premises specified in a licence.

The compliance directive may be given to a licensed operator in respect of any boarding premises specified in its licence or a proprietor in cases where compliance by the licensed operator with the compliance directive requires the permission or other co-operation of that proprietor.

It is not necessary to provide a licensed operator or proprietor reasonable opportunity to be heard before giving the licensed operator or proprietor a compliance directive.

A compliance directive may require the licensed operator concerned or the proprietor (according to the circumstances of the case) to do, or to refrain from doing, such things as are specified in the directive or are of a description as specified therein. Non-compliance with a compliance directive is an offence. The penalty is a fine not exceeding \$50,000 or imprisonment up to 12 months or both and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for each day or part thereof that continues after conviction.

Clause 14 sets out the various regulatory actions that the Commissioner can take against a licensed operator of a foreign employee dormitory if the Commissioner is satisfied that —

- (a) the licensed operator is contravening or not complying with, or has contravened or failed to comply with any of the conditions of its licence or any code of practice or standard of performance applicable to the licensed operator, or any provision of the Bill applicable to the licensed operator, whether or not the licensed operator has been convicted of an offence for the contravention or non-compliance;
- (b) the continued use of the boarding premises as a foreign employee dormitory under the licence would constitute an unacceptable risk to the safety, welfare or well-being of residents at those premises;
- (c) the licensed operator has not complied with any compliance directive or a business restriction directive, whether or not the licensed operator has

been convicted of an offence under clause 13(6) or 15(3), as the case may be;

- (d) the licensed operator has gone or is likely to go into compulsory or voluntary liquidation other than for the purpose of amalgamation or reconstruction;
- (e) the licensed operator has made any assignment to, or composition with, its creditors; or
- (f) the public interest or security of Singapore requires.

The Commissioner may in serious cases, after observing the prescribed process in the clause, revoke a licence. In lieu of revoking the licence, the Commissioner can impose one or more of the following:

- (a) issue a letter of censure;
- (b) add, delete or modify a condition of a licence;
- (c) impose a business restriction directive restricting the licensed operator's business of operating a foreign employee dormitory specified in the licence;
- (d) require a performance bond, guarantee or other form of security to be furnished;
- (e) suspend (for not more than 6 months) the licence without any compensation;
- (f) forfeit the whole or part of any performance bond, guarantee or other form of security provided.

Clause 15 expands on what may be set out in a business restriction directive. This can include a direction to the licensed operator concerned not to enter into an occupancy agreement for the purpose of a foreign employee becoming a resident of the foreign employee dormitory, or not to enter into, or renew or extend, an occupancy agreement.

Any licensed operator who, without reasonable excuse, contravenes or fails to comply with a requirement imposed by a business restriction directive is guilty of an offence. The penalty is a fine not exceeding \$50,000 or imprisonment for a term not exceeding 12 months or both.

Clause 16 is a debarment provision. The clause states that where a licence to operate boarding premises as a foreign employee dormitory is revoked under clause 14, the person who was the holder of that licence is also disqualified, for such period as may be specified by the Commissioner, from holding a licence for the same premises or such other premises as the Commissioner is to specify in the order, and from being a manager of those premises as a foreign employee dormitory or any foreign employee dormitory.

Clause 17 provides that a licence is not transferable and is not assignable, except with the consent of the Commissioner and that any transfer or assignment, or purported transfer or assignment, of a licence without that approval is of no effect.

Clause 18 imposes a reporting requirement on licensed operators.

Clause 19 empowers the Commissioner to issue or approve codes of practice and standards of performance for licensed operators to adhere to.

Clause 20 provides that no boarding premises are to wholly stop being used as a foreign employee dormitory, and no licence is to be surrendered, unless the licensed operator of the foreign employee dormitory has the approval of the Commissioner to do so.

In granting any approval, the Commissioner may impose conditions, including but not limited to directing the licensed operator to assist affected residents to find alternative accommodation in Singapore. Non-compliance with the requirements of this clause is an offence.

Clause 21 requires the Commissioner to establish and maintain a Register of all licensed operators.

PART 3

APPEALS

Clause 22 prescribes an avenue of appeal to the Minister against any decision of the Commissioner to revoke a licence.

Clause 23 allows the Minister to delegate the hearing of appeals to a Minister of State, Parliamentary Secretary or public officer in his or her Ministry.

PART 4

ENFORCEMENT

Clause 24 confers various powers of inspection and entry on a dormitory inspector for the purposes of monitoring compliance or investigating any offence under the Bill or any contravention of a provision of the Bill which may result in regulatory action.

Clause 25 provides that a police officer or a dormitory inspector may arrest without warrant any individual whom the police officer or dormitory inspector, as the case may be, reasonably suspects is committing or has committed an offence under clause 7, or an abetment of, or a conspiracy or an attempt to commit, such an offence. Sections 21A to 21G of the Employment of Foreign Manpower Act (Cap. 91A) can apply, with the necessary modifications, to an arrest by a dormitory inspector under this clause for or in relation to an offence.

Clause 26 sets out offences of giving false information and of obstructing dormitory inspectors in the administration of the Bill.

Clause 27 relates to corporate offenders.

Clause 28 empowers the Commissioner to compound any offence under the Bill which is prescribed as a compoundable offence. The maximum composition sum that may be collected from the person reasonably suspected of having committed the compoundable offence is one half of the amount of the maximum fine that is prescribed for the offence or \$5,000, whichever is the lower.

PART 5

MISCELLANEOUS

Clause 29 deems every foreign employee dormitory to be a public place for the purposes of section 18 of the Miscellaneous Offences (Public Order and Nuisance) Act (Cap. 184). That provision sets out the offence of drunkenness in public places.

Clause 30 deals with how documents may be served under the Bill.

Clause 31 is an immunity provision for persons who administer the Bill. The clause provides that no suit or other legal proceedings will lie against the Commissioner and any dormitory inspector for anything which is in good faith done or intended to be done in the execution or purported execution of the Bill. However, the immunity does not extend to cover loss or damage that is wilfully or negligently caused.

Clause 32 confers power on the Minister to exempt any person or class of persons from all or any of the provisions of the Bill by way of an order published in the *Gazette*.

Clause 33 confers on the Magistrate's Court and the District Court jurisdiction to try offences under the Bill.

Clause 34 confers power on the Minister to make regulations that are necessary or expedient to give effect to the Bill.

The Minister is expressly conferred with power to make regulations prescribing that buildings, structures or facilities of a specified or described nature, or adapted or designed in a specified or described way, are to be regarded as a single complex of boarding premises, or the criteria by which it is to be determined whether buildings, structures or facilities are to be regarded as a single complex of boarding premises. This is to give certainty in determining whether several buildings on different parcels are to be regarded as a single boarding premises and whether all the beds therein are to be counted to see if the threshold number is attained.

The Minister is also conferred power to make regulations to prescribe how to determine the occupancy load of boarding premises and to adopt occupancy loads that may be prescribed by other public authorities.

Clause 35 is a saving and transitional provision that will apply to persons who operate a foreign employee dormitory, or have been granted written permission under the Planning Act (Cap. 232) to develop any land as a foreign employee dormitory, when the Bill comes into force. Such a person can continue to provide that service or develop that land for 6 months and, if, within that period, the person applies for a licence, the person may continue to do so until the date on which the Commissioner issues a licence to the person or the date that the application is finally refused or withdrawn.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
